

# Guidelines for Local Health Jurisdictions Implementing Civil Detention of Non-Adherent Tuberculosis (TB) Patients

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Reference: Tuberculosis Task Force on Detention, 1997-1998.

## Detention:

Washington's current TB law contains features of both an administrative/public health model and a judicial/due process model. "Administrative model" as used herein means granting broad powers to public health departments to exercise discretion in issuing and enforcing public health orders, including detention powers. "Judicial/due process model" as used herein means requiring public health departments to use the court system for due process hearings of issuance or enforcement of public health orders. The administrative model in Washington law is found in both *Washington Revised Code* chapters 70.5 and 70.28. The judicial/due process model is found in Washington Administrative Code chapter 246-170.

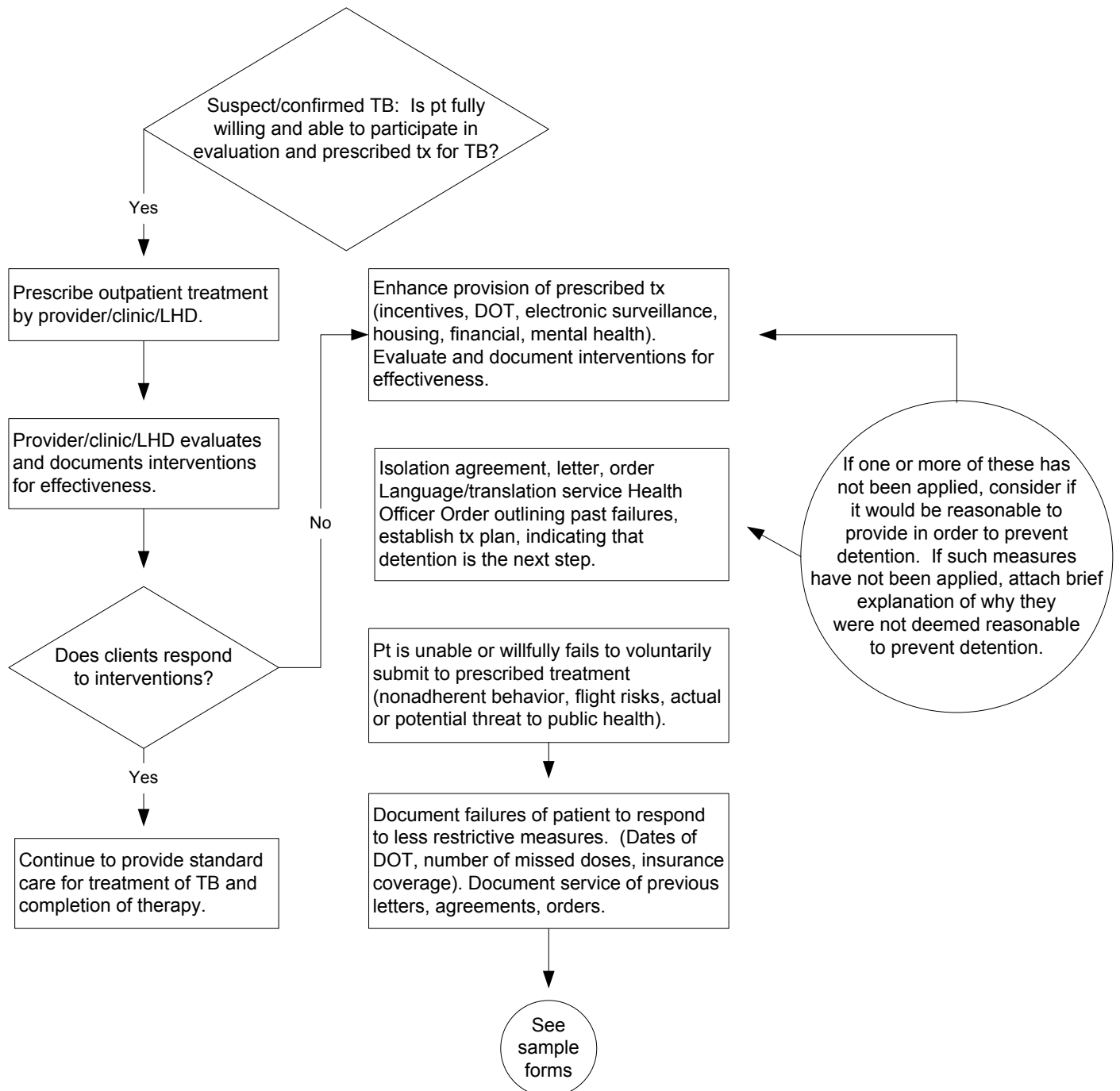
The local health officer (LHO) is authorized to use "every available means" to ascertain the existence of, and to immediately investigate, all reported or suspected cases of TB. In conducting the necessary investigation and crafting interventions, the LHO is given full powers of inspection, examination, treatment, and quarantine or isolation. Whenever the LHO determines "on reasonable grounds" that examination, treatment, or quarantine of any person is necessary for the protection of the public health, the LHO sets out, in writing, the specific terms or conditions to be followed in the form of an administrative public health order. The affected individual is free to select a licensed physician of their own choosing to conduct any required examination.

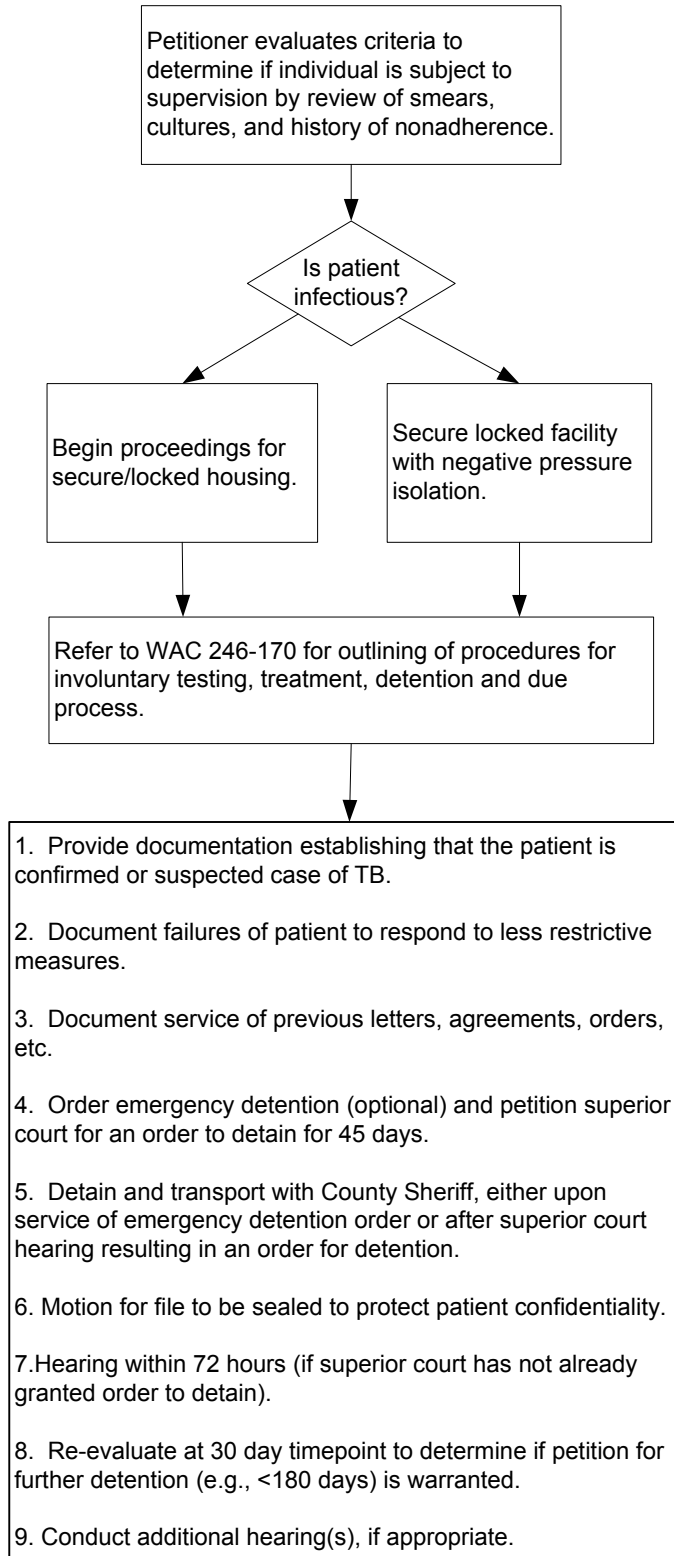
Public health officials may seek involuntary detention of a person suspected of having TB who refuses to be examined. To obtain a judicial (court) order authorizing detention, the state must show such detention and treatment necessary to protect the public on the basis of "generally" accepted standards of medical and public health science." Orders of examination must be in writing and must include the name of the person to be examined, the time and place of the examination, and other such terms and conditions as may be deemed necessary.

The LHO is required to report in writing violations of administrative public health orders for examination or quarantine to the prosecuting attorney. Violation of LHO orders remains a misdemeanor. Potential penalties for violating a public health order include court ordered confinement until full compliance.

The State board of Health did develop and enact due process standards in the Washington Administrative Code Chapter 246-170. These regulations provide a detailed judicial/due process mechanism that exists in tandem with broad powers and discretion conferred on local health

# Overview of alternatives of care, criteria for civil detention and court ordered treatment, isolation and quarantine for suspected/confirmed cases of Tuberculosis





departments by the statutes (chapter 70.05 and the TB Statute) and the Washington State Constitution.

The following guidelines are to communicate a standard of practice for the public health community with appropriate utilization of detention procedures and resources.